



IT IS ORDERED as set forth below:

Date: September 09, 2010

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:	:	CHAPTER 7
	:	
ROYSTON A. JACKSON and	:	
JOYCE JACKSON,	:	BANKRUPTCY CASE
	:	NO. 09-87639-MGD
Debtors,	:	
-----	:	
	:	
ALMADENE BRYAN,	:	ADVERSARY PROCEEDING
	:	10-06027
Plaintiff,	:	
	:	
v.	:	
	:	
ROYSTON A. JACKSON and	:	
JOYCE JACKSON,	:	
	:	
Defendants.	:	
-----	:	

ORDER DENYING PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT

This case is before the Court on Almadene Bryan's ("Plaintiff") "Request to Clerk to Enter Default Against Royston A. Jackson and Joyce Jackson" ("Debtor" or "Defendants"). (Docket No. 6). Plaintiff commenced the underlying adversary proceeding against Debtors on January 19, 2010, seeking

a determination of the dischargeability of a debt under § 523(a)(2). According to the certificate of service, the summons and complaint were served on Debtors' counsel on January 20, 2010. Entry of default against Debtors is improper because Plaintiff did not effectuate service of process on Debtors. Rule 7004(b)(9) of the Federal Rules of Bankruptcy Procedure instructs that service of process on the debtor is effected by "mailing a copy of the summons and the complaint to the debtor at the address shown on the petition or to such address as the debtor may designate in a filed writing." FED. R. BANKR. P. 7004(b)(9). Paragraph 5 of the complaint correctly notes that Debtors may be served at the address on the petition, but the certificate of service only certifies service on Horatio Edmonson, Esq. and Vincent Otuonye, Esq. "Perfection of service of process results in this [Court] obtaining jurisdiction over parties such that it can adjudicate their rights." *Ga. Lottery Corp. v. Hunt (In re Hunt)*, 2010 Bankr. LEXIS 762 (Bankr. N.D. Ga. Feb. 24, 2010) (citing *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442, 263 U.S. App. D.C. 300 (D.C. Cir. 1987) (citation omitted); *Fed. Trade Comm'n v. Compagnie de Saint-Gobain-Pont-A-Mousson*, 636 F.2d 1300, 1319, 205 U.S. App. D.C. 172 (D.C. Cir. 1980)). Without proper service upon Debtors, the Court cannot enter default against Debtors.

The docket reflects that Debtors filed a pleading entitled, Opposition to Movant's Complaint, prior to Debtors' request for entry of default. (Docket No. 5). The Court is unsure of what type of pleading Debtors intend for this to be. It is not an answer.¹ No admissions or denials are enumerated as required by Rule 7008(b)(1) of the Federal Rules of Civil Procedure. Subsequent to Plaintiff's request for entry of default, the parties have filed other pleadings. Because this Court cannot determine the nature of Debtors' pleadings or the relief requested and because the Court does not have jurisdiction over the Debtors with respect to this adversary action, this Order shall resolve all the pending pleadings.

¹ This pleading was filed in the main Chapter 7 case, 09-87639-MGD, on February 18, 2010. The same pleading was filed March 10, 2010 in this adversary action.

Accordingly, it is

ORDERED that the Plaintiff's Request for Entry of Default is hereby **DENIED**.

It is **FURTHER ORDERED** that Plaintiff shall have fourteen (14) days from entry of this Order to obtain an alias summons on Debtors and properly serve Debtors with a valid summons and complaint to avoid dismissal of this action without further notice.

The Clerk is directed to serve a copy of this Order upon Plaintiff, Plaintiff's counsel, Defendants, and Defendants' counsel.

END OF DOCUMENT